

PROB 12C
(04/08)

July 15, 2008

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF CALIFORNIA

FILED

08 JUL 25 PM 12:15

Petition for Warrant or Summons for Offender Under Supervision

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

7/18
DEPUTY

Name of Offender: Windy Denise CONWAY (English)

Dkt No.: 07-CR-3320-001-W

Reg. No.: 06561-298

Name of Sentencing Judicial Officer: The Honorable Nita L. Stormes, U.S. Magistrate Judge

Date of Sentence: January 22, 2008

Original Offense: 18 U.S.C. § 111(a), Assault on a Federal Officer, a Class A misdemeanor

Sentence: 60 days custody; one year supervised release (*Special Conditions: See Attached Judgment and Commitment Order.*)

Modification: On April 21, 2008, supervised release modified to include: warrantless search, substance abuse treatment, drug/alcohol testing, alcohol abstinence, and mental health treatment, as Ms. Conway submitted a urine sample which tested positive for cocaine. She informed her probation office that she was drinking heavily at a friend's house, and that the next day she used "pills, drugs, [and] alcohol."

Type of Supervision: Supervised Release

Date Supervision Commenced: January 23, 2008

Asst. U.S. Atty.: W. Mark Conover

Defense Counsel: Karen M. Stevens (Appointed)
(619) 239-8553

Prior Violation History: None

PETITIONING THE COURT

TO ISSUE A NO-BAIL BENCH WARRANT

PROB 12C

Name of Offender: Windy Denise CONWAY

July 15, 2008

Docket No.: 07-CR-3320-001-W

Page 2

The probation officer believes that the offender has violated the following condition(s) of supervision:

CONDITION(S)**ALLEGATION(S) OF NONCOMPLIANCE****(Special Condition)**

Participate in a program of drug or alcohol abuse treatment, including urinalysis testing and counseling, as directed by the probation officer. May be required to contribute to the costs of services rendered in an amount to be determined by the probation officer, based on ability to pay. (nv21)

1. Ms. Conway failed to submit urine samples at the Las Vegas Community Reentry Center on June 19, and 21, 2008.

Grounds for Revocation: I received a reviewed correspondence from Ms. Conway's supervising probation officer in the District of Nevada, which indicated that on the above dates, the offender failed to report for drug testing.

(Special Condition)

Participate in a program of mental health treatment as directed by the probation officer, take all medications as prescribed by a psychiatrist/physician, and not discontinue any medication without permission. The court authorizes the release of the presentence report and available psychological evaluations to the mental health provider, as approved by the probation officer. May be required to contribute to the costs of services rendered in an amount to be determined by the probation officer, based on ability to pay. (nv22)

2. Ms. Conway failed to report for her scheduled intake counseling appointment on June 5, 2008.

Grounds for Revocation: I received a reviewed correspondence from Ms. Conway's supervising probation officer in the District of Nevada, which indicated that on the above date, the offender failed to report for her scheduled intake counseling appointment for both substance abuse and mental health treatment. The offender was aware of her appointment and failed to report.

PROB 12C

Name of Offender: Windy Denise CONWAY

July 15, 2008

Docket No.: 07-CR-3320-001-W

Page 3

(Special Condition)

Abstain from alcohol.

3. On May 21, 2008, during a home inspection of Ms. Conway's residence, the probation officer located a partially empty bottle of vodka in Ms. Conway's bedroom.

Grounds for Revocation: I received a reviewed correspondence from Ms. Conway's supervising probation officer in the District of Nevada, which indicated that on the above date, the probation officer conducted a home inspection in which a partially empty bottle of vodka was found in the offender's bedroom.

VIOLATION SENTENCING SUMMARY**SUPERVISION ADJUSTMENT**

Ms. Conway has been supervised by the United States Probation Office in the District of Nevada (D/NV) since her release from custody on January 23, 2008. On March 25, 2008, the undersigned received correspondence from Ms. Conway's supervising probation officer detailing her noncompliance, and requesting modifications of supervised release, which were approved by Your Honor on April 21, 2008. On May 22, 2008, the undersigned received a request from the D/NV requesting that our district initiate transfer of jurisdiction; thereafter, Your Honor signed the Transfer of Jurisdiction request. Since that time, however, the D/NV has rescinded their offer to accept jurisdiction of this case, and are now requesting that our office initiate violation proceedings.

OFFENDER PERSONAL HISTORY/CHARACTERISTICS

According to the criminal history letter prepared in this case, Ms. Conway's criminal history consists of two assaults with a deadly weapon, petty theft, and four domestic violence batteries. Additionally, the criminal history letter details twelve other law enforcement contacts, and two pending charges. The offender has no ties to the Southern District of California.

SENTENCING OPTIONS**CUSTODY**

Statutory Provisions: Upon the finding of a violation, the court may modify the conditions of supervision; extend the term (if less than the maximum authorized term was previously imposed); or revoke the term of supervised release. 18 U.S.C. § 3583(e)(2) and (3).

If the court revokes supervised release, the maximum term of imprisonment upon revocation is 1 year. 18 U.S.C. § 3583(e)(3).

PROB 12C

Name of Offender: Windy Denise CONWAY

July 15, 2008

Docket No.: 07-CR-3320-001-W

Page 4

USSG Provisions: The allegations (possessed an alcoholic beverage, failed to report for counseling, failed to report for drug testing) constitute Grade C violations. USSG § 7B1.1(a)(3)(B), p.s.

Upon a finding of a Grade C violation, the court may (A) revoke supervised release; or (B) extend the term and/or modify the conditions of supervision. USSG § 7B1.3(a)(2), p.s.

A Grade C violation with a Criminal History Category III (according to the governments sentencing summary chart) establishes an **imprisonment range of 5 to 11 months**. USSG § 7B1.4, p.s.

It is noted that in the case of a Grade C violation, and where the minimum term of imprisonment determined under USSG § 7B1.4, p.s., is at least one month but not more than six months, the minimum term may be satisfied by (A) a sentence of imprisonment; or (B) a sentence of imprisonment that includes a term of supervised release with a condition that substitutes community confinement... for any portion of the minimum term. USSG § 7B1.3(c)(1), p.s.

REIMPOSITION OF SUPERVISED RELEASE

If supervised release is revoked and the offender is required to serve a term of imprisonment, the court can reimpose supervised release upon release from custody. The length of such a term shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment imposed upon revocation. 18 U.S.C. § 3583(h).

In this case, the court has the authority to reimpose a term of 1 year supervised release, less any term of imprisonment imposed upon revocation. 18 U.S.C. § 3583(b).

PROB 12C

Name of Offender: Windy Denise CONWAY

July 15, 2008

Docket No.: 07-CR-3320-001-W

Page 5

RECOMMENDATION/JUSTIFICATION

Ms. Conway was on supervised release for less than one month, when she tested positive for drug use. Since that point, there has been a steady decline in her compliance with the Court's directives. Now, six months into her supervised release, the D/NV has closed their interest in the case.

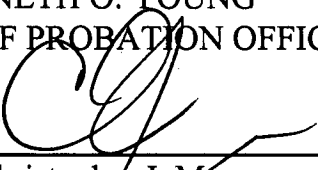
The offender has a significant history of assaultive behavior, as evidenced by her numerous convictions. The undersigned believes that any further terms of supervised release would prove similarly fruitless. Therefore, a custodial sentence of eight months custody is recommended, with no supervised release to follow.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: July 15, 2008

Respectfully submitted:
KENNETH O. YOUNG
CHIEF PROBATION OFFICER

by



Christopher J. Marco
U.S. Probation Officer
(619) 557-6502

Reviewed and approved:



Sean Quintal
Supervising U.S. Probation Officer



Name of Offender: Windy Denise CONWAY

July 15, 2008

Docket No.: 07-CR-3320-001-W

Page 6

VIOLATION WORKSHEET1. **Defendant:** CONWAY, Windy Denise2. **Docket No. (Year-Sequence-Defendant No.):** 07-CR-3320-001-W3. **List Each Violation and Determine the Applicable Grade (See USSG § 7B1.1):**

<u>Violation(s)</u>	<u>Grade</u>
<u>possessed an alcoholic beverage</u>	<u>C</u>
<u>failed to report for counseling</u>	<u>C</u>
<u>failed to report for drug testing</u>	<u>C</u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>
<u> </u>	<u> </u>

4. **Most Serious Grade of Violation (See USSG § 7B1.1(b))** [C]5. **Criminal History Category (See USSG § 7B1.4(a))** [III]6. **Range of Imprisonment (See USSG § 7B1.4(a))** [5 - 11 months]7. **Unsatisfied Conditions of Original Sentence:** None.

Name of Offender: Windy Denise CONWAY

July 15, 2008

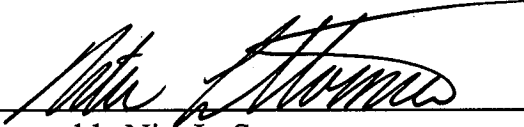
Docket No.: 07-CR-3320-001-W

Page 7

THE COURT ORDERS:

☒ A NO-BAIL BENCH WARRANT BE ISSUED BASED UPON A FINDING OF PROBABLE CAUSE TO BRING THE OFFENDER BEFORE THE COURT TO SHOW CAUSE WHY SUPERVISED RELEASE SHOULD NOT BE REVOKED FOR THE ALLEGED VIOLATIONS.

Other _____


The Honorable Nita L. Stormes
U.S. Magistrate Judge

7-16-08
Date

cjm/cjm